

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3039 of 2012

(Through Video Conferencing)

C.Gnanavel ... Appellant/Petitioner

Vs.

1.C.Udayakumar

2.United India Insurance Co. Ltd.,
No.1080, Poonamallee High Road,
A.R.Complex, Chennai - 600 084.

... Respondents/Respondents

(1st respondent remained ex-parte)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 14.02.2012 made in M.A.C.T.O.P.No.1670 of 2008, on the file of the II Small Causes Court (Motor Accidents Claims Tribunal) Chennai.

For Appellant : Mr.R.Kalai Arasan

For R2 : Mr.S.Arun Kumar

For R1 : Exparte

J U D G M E N T

With consent of both the learned counsel for the appellant and the 2nd respondent, this Civil Miscellaneous Appeal is taken up for hearing and disposed finally.

2. This Civil Miscellaneous Appeal has been filed against the impugned Judgment and Decree dated 14.02.2012, passed by the Motor Accident Claims Tribunal, Chennai (II Court of Small Causes, Chennai), in M.C.O.P.No.1670 of 2008.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,04,100/- together with interest at 7.5% per annum from the date of filing of the claim petition till

the date of deposit, to the appellant/claimant. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed by the claimant for enhancing the compensation.

4. The appellant/claimant a driver had suffered an injury in a motor accident that took place on 17.11.2007 at 02.30 p.m. The appellant/claimant was driving a van bearing registration No. TN-22-A-9991 and while he was proceeding from Puducherry to Chennai along GST Road, a Scorpio Car bearing registration No. TN-55-H-7272 insured with the 2nd respondent, is said to have dashed the said van, purportedly driven in a rash and negligent manner, as a result of which, the appellant had sustained injuries.

5. Therefore, the claim petition was filed by the appellant for compensation of the injury suffered. The appellant had suffered fracture of fibula bone in the right leg and 3rd and 4th metacarpal and crush injury in the left hand, as a result of which, he lost the earning capacity.

6. The Tribunal has considered the loss of earning capacity and has awarded a sum of Rs.2,04,100/- as compensation under the following heads:-

Heads	Amount
Loss of Earning Power/Capacity	Rs.1,29,000/-
Permanent Disability	*Rs. 30,000/-
Loss of Income during Treatment	*Rs. 13,000/-
Transport Charges	Rs. 3,000/-
Extra Nourishment	Rs. 2,000/-
Damage to Clothes and articles	Rs. 1,000/-
Medical Expenses	Rs. 5,000/-
Pain and Sufferings	Rs. 20,000/-
Total	Rs.2,04,100/-

*enhanced by this Judgment.

7. Though the calculations for the above amount awarded appears to be correct, I am of the view that the appellant should be awarded for another sum of Rs.24,000/-.

8. Therefore, Rs.30,000/- awarded towards the permanent disability is enhanced by another sum of Rs.15,000/- and Rs.13,000/- awarded towards loss of income during the treatment is increased by treating the period to 5 months instead of 3 months. Thus, the compensation for loss of income during the treatment is enhanced by another sum of Rs.9,000/-.

9. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of

Rs.24,000/- as ordered by this Judgment, together with interest at 7.5% per annum from the date of filing of the claim petition, i.e. 19.11.2007 on the aforesaid amount, till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. Balance amount of compensation awarded by the Tribunal if any, the appellant shall also deposit together with interest as ordered by the Tribunal, within such time.

10. On such deposit, the appellant/claimant is entitled to withdraw the same together with interest, by filing suitable application before the Tribunal.

11. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1.The II Small Causes Court
(Motor Accidents Claims Tribunal) Chennai.
- 2.The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.3039 of 2012

AK(CO)
CB(01/12/2020)

सत्यमेव जयते

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